

**Decision Record**  
**Rick May Weather Station Right-of-Way OR 57407**

**Recommendation**

I recommend that a right-of-way for the installation and maintenance of a weather data collection station be granted to Rick L. May, located on the following public land: WM, T. 9S., R. 41E., section 17, lot 2. The size of the right-of-way is to be 100 feet by 100 feet. The term of the grant should be five years, as proposed by the applicant.

This right-of-way should be granted pursuant to Title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761) and be subject to the attached stipulations, which include those derived from mitigation measures in the application and environmental assessment as well as standard District and Resource Area stipulations. Rental is to be charged in accordance with 43 CFR 2803.1-2(a).

**Rationale**

The proposed action will give the applicant the means to evaluate the area for possible future wind turbine electrical generators. The environmental assessment prepared for the project indicates only negligible impacts would occur to resources on public lands. The action conforms to the Baker Resource Management Plan, approved July 12, 1989, and is compatible with the Baker County zoning. It will not interfere with other uses of the public lands, with use of nearby private land, or with public access. It will not have an adverse impact on the production of energy.

s/Steve Davidson  
Realty Specialist

July 18, 2002  
Date

**Decision**

The recommendation and its rationale are adopted as my decision.

s/Penelope Dunn-Woods  
Field Manager

July 18, 2002  
Date

## STIPULATIONS

### A. Construction and Operation

1. The location of the project shall be as staked during the fall of 2001.
2. The design of the project shall be approximately as shown on attached Exhibit C, submitted with the application.
3. All work is to be done with hand tools.
4. No sagebrush is to be cut.
5. A fence shall be constructed to protect the facility. The fence may enclose an area up to 100 feet by 100 feet, as specified in the grant of right-of-way.
6. The protective fence is to be constructed according to the following specifications: \*
  - a. Use the circled "cattle with antelope" wire spacing shown on Exhibit D.
  - b. The bottom wire is to be barbless.
  - c. Construct rock jacks at the corners, as shown in Exhibit E.
  - d. Use steel posts if possible, otherwise, use Figure Fours as shown on Exhibit E.
  - e. Posts are to be 20 feet apart with two twisted wire stays between the posts.
7. Install approved perch guards or objects on rock-jack posts which will prevent perching or nesting by birds-of-prey (hawks, eagles).
8. Access to the site shall be via the road trace along the fence running past the site. No unnecessary off-road travel is permitted.
9. Except during emergencies, avoid visiting the site at dawn or at dusk during sage grouse nesting and breeding season (March through June).

### B. Termination

1. At the termination of the right-of-way, if the abandoned structures or improvements are not removed within a reasonable length of time, as determined by the authorized officer, they will become the property of the United States. The holder will be liable for any expense in removing the structures and restoration of the site (43 CFR 2803.4-1).
2. At the termination of the right-of way, the holder shall contact the

authorized officer to arrange a joint inspection of the right-of-way. This inspection will be held to agree to an acceptable termination (and rehabilitation) plan. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, or seeding. The authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.

C. General

1. The holder shall be responsible for weed control on disturbed areas within the limits of the right-of-way. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods (within limits imposed in the grant stipulations).
2. Use of pesticides shall comply with the applicable Federal and State laws. Pesticides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides, the holder shall obtain from the authorized officer written approval of a plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the authorized officer. Emergency use of pesticides shall be approved in writing by the authorized officer prior to such use.
3. The United States will not be held liable for any damage to the facility caused by the general public, natural disaster, or action stemming from normal land management activities of the Bureau of Land Management.
4. The holder shall indemnify the United States against any liability for damage to life or property arising from the occupancy or use of public lands under this grant.
5. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any persons working on his behalf on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and mitigation, and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.
6. Pursuant to 43 CFR 10.4(g), the holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4(c) and (d),

you must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer.

7. The holder shall protect all survey monuments found within the right-of-way. Survey monuments include, but are not limited to, General Land Office and Bureau of Land Management Cadastral Survey Corners, reference corners, witness points, U.S. Coastal and Geodetic benchmarks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. In the event of obliteration or disturbance of any of the above, the holder shall immediately report the incident, in writing, to the authorized officer and the respective installing authority if known. Where General Land Office or Bureau of Land Management right-of-way monuments or references are obliterated during operations, the holder shall secure the services of a registered land surveyor or a Bureau cadastral surveyor to restore the disturbed monuments and references using surveying procedures found in the Manual of Surveying Instructions of the Survey of the Public Lands of the United States, latest edition. The holder shall record such survey in the appropriate county and send a copy to the authorized officer. If the Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monument, the holder shall be responsible for the survey cost.
8. The holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 716.1-761.193). Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102 b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State government.
9. The holder agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, (43 U.S.C. 9601, et seq. or the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901, et seq.) on the right-of-way (unless the release or threatened release is wholly unrelated to the right-of-way holder's activity on the right-of-way). This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third parties.

10. Construction sites shall be maintained in a sanitary condition at all times; waste materials at those sites shall be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment.
11. The holder of a right-of-way grant is prohibited from discriminating against any employee or applicant for employment under the regulations found at 43 CFR 2801.2 (a) (2).
12. The holder shall conduct all activities associated with the construction, operations, and termination of the right-of-way within the authorized limits of the right-of-way.
13. The holder shall take such measures for prevention and suppression of fire on the grant area and adjacent public lands or public lands used or traversed by the holder in connection with operations as are required by applicable laws and regulations.
14. The authorized officer reserves the right to grant additional rights-of-way or permits for compatible use on, over, under, or adjacent to the land involved in this grant.
15. This right-of-way is subject to valid existing rights.

**\*Note: Copies of Exhibits C, D, or E may be obtained by calling Steve Davidson at 541-523-1349.**